THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No. 24077 of 2005

DATED: 07.12.2005

G.Sammi Reddy, S/o. Jagga Reddy, Occ: Assistant Divisional Engineer- Operation, APNPDCL, Jangaon, Warangal District.

…….. PETITIONER

The Chairman-cum-Managing Director, APNPDCL, Warangal

and others.

… RESPONDENTS

ORDER:

This writ petition discloses not only the lack of basic understanding of the relevant rules on the part of the 2nd respondent, but also his scant regard and respect for this Court.

The petitioner joined the service of the Andhra Pradesh State Electricity Board (for short 'the Board') in the year 1988 as Sub-Engineer. While in service, he passed B.Tech and thereby, acquired the eligibility for being appointed as an Assistant Engineer. The procedure contemplates conducting of a written examination as well as an oral interview, limited to the Sub-Engineers. The selected candidates are required to undergo training for a period of one year.

The petitioner passed the written test conducted on 22.05.1994 and was successful in the interview held on 15.11.2004. On the next day, he was issued orders of appointment and was required to undergo training for a period of one year.

At the instance of the Sub-Engineers, who are juniors to the petitioner, and who failed in the written test conducted on 22.05.1994, the Board relaxed the requirement of appearing in the written test, interview, as well as the necessity to undergo training on being selected. In short, the process of selection was converted into the one of pure promotion, on the basis of seniority alone, and the training was totally dispensed with, for them. The result was that as many as 92 Sub-Engineers were promoted purely on the basis of seniority to the posts of Assistant Engineer. Such appointments were made with effect from 22.12.1994 i.e., one month after the petitioner came to be appointed through the process of selection.

The Board exhibited its step-motherly treatment to the petitioner by extending the benefit of granting annual increment to 92 persons and by denying the same to the petitioner, on the ground that his regular appointment after training was after almost an year, subsequent to the appointment/promotion of those persons. It was in this context that the petitioner made a representation, complaining that his juniors in the cadre of Sub-Engineer are drawing a higher scale of pay. When no action was taken thereon, the petitioner filed W.P.No.18800 of 1998 before this Court. The Writ Petition was disposed of through orders, dated 14.10.2004. Extensive discussion was undertaken with regard to the facts as well as Regulation 30-A of the Service Regulations (for short 'the Regulations'), which dealt with the removal of anomalies in the pay structures between seniors and juniors. The 2nd respondent was directed to pass orders on the representation, duly taking into account Regulation 30-A of the Regulations. The 2nd respondent passed an order, dated 21.12.2004, stating that the representation of the petitioner cannot be considered under Regulation 30-A of the Regulations. The petitioner challenges the same in this

Writ Petition.

In the counter affidavit filed by the 2nd respondent, it is stated that the representation was considered with reference to Regulation 30-A and on finding that the case of the petitioner is not covered by the same, it was rejected. A distinction is sought to be made between the nature of appointment of the petitioner on the one hand and of the 92 Sub-Engineers on the other.

The learned counsel for the petitioner submits that the impugned order does not state any reason and the 2nd respondent has deliberately refused to follow the specific directions issued by this Court. He contends that there was absolutely no justification on the part of the 2nd respondent in taking the plea that Regulation 30-A of the Regulations does not govern the case of the petitioner, when this Court specifically extracted the provision and directed that his case be considered in terms thereof.

The learned Standing Counsel for the respondents, on the other hand, submits that the case of the petitioner was considered strictly in terms of the Judgment of this Court in W.P.18800 of 1998 and Regulation 30-A, and on finding that the Regulation does not apply, the impugned order was passed.

The petitioner participated in the written test and the interview conducted by the Board, for the purpose of selecting candidates for the Post of 'Assistant Engineer'. He was successful and was issued orders of appointment on 16.11.1994. As many as 92 Sub-Engineers failed in the written test. The Board resorted to gross irregularity and illegality by appointing those 92 failed candidates as Assistant Engineers within one month from the date of their successful failure in the written test. It relaxed the conditions as to appearing in the written test as well as the interview. Its favourism did not stop there. It dispensed with the requirement of undergoing training for such candidates, who have failed in the written test. The result was that while the petitioner, who has undergone all the selection process and came to be appointed on 16.11.1994,

was subjected to training for a period of one year, those 92 Sub-Engineers, who failed in the written test but promoted/appointed through objectionable means on 22.12.1994, were straight away given orders of posting, without requiring them to undergo the training. Further, those 92 non-meritorious Sub-Engineers, who are juniors to the petitioner, were granted the annual increment soon after completion of one year from the date of appointment, whereas the petitioner was not extended such a benefit, on the ground that his regular posting took place after completion of training. Thus the Board has proudly proved the saying that mediocracy does not remain content by claiming superiority over merit, but would relent only after humiliating the meritorious.

The acts and omissions of the respondents have brought about anomalies in the pay structure of the petitioner, when compared to his juniors. Regulation 30-A of the Regulations, which was extracted by this Court in its entirety in the order passed in W.P.18800 of 1998, deals exactly with the instances, where the juniors happen to draw higher scale of pay, than a senior. This Court clearly indicated that the case of the petitioner is governed by Regulation 30-A of the Regulations and directed the 2nd respondent to examine the case of the petitioner in terms thereof. The 2nd respondent has passed the following order in response to the same.

> *"In the reference cited above the Hon'ble High Court have issued directions to consider the case of the petitioner in the light of the Regulation 30-A Part-I Service Regulations.*
>
> 2. *The matter has been examined with reference to the provisions under Regulation 30-A. The case of Mr.G.Sammi Reddy does not come under its purview.*
>
> 3. *In view of the foregoing the petitioner is informed that his representation cannot be considered under Regulation 30-A Part-I Service Regulations."*

The above order, to say the least, discloses either lack of competence, or minimum comprehension and understanding of the provisions or utter disregard

for the orders of this Court, on the part of the officer, who passed it. This Court takes serious exception to the attitude exhibited by the 2nd respondent and places on record its displeasure. It is sad that the persons of such nature are holding the pivotal posts in such an important organization. But for the fact that the 2nd respondent is not impleaded as a party by name, this Court would have passed orders touching upon competence to hold such an important post.

The petitioner was already subjected to untold hardship and agony. He was made to go around the Office of the respondents as well as this Court several times in a trivial matter, for grant of one increment, that too in the context of his juniors drawing a higher scale of pay.

For the foregoing reasons, this Writ Petition is allowed and it is directed that the 2nd respondent shall rectify the anomaly, by equating the pay structure of the petitioner on par with his juniors in the post of Sub-Engineers, and pay the arrears within a period of four (4) weeks from the date of receipt of a copy of this order. The petitioner shall also be paid costs of Rs.10,000/- (Rupees Ten Thousand Only) along with arrears. In default, the Chairman-cum-Managing Director, 1st respondent herein, shall deduct the amount of costs, from the salary of the 2nd respondent and pass it on to the petitioner.

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07.12.2005

Note: L.R.Copy to be marked.

(B/o)

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